

IN THE CLAIMS

Claim 1. (currently amended) An elongate canister comprising a generally ~~rectangular~~ hexagonal cross-section formed by a front wall, a five-section back wall and two side walls, the front wall, irregular back wall and side walls, the walls extending between the top and bottom of the canister and having dimensions so that a generally hexagonally shaped interior is formed to house a plurality of generally circular shaped microorganism identification test devices stacked one atop another within the canister, the canister further comprising a test device eject port formed in the front wall proximate the bottom of the canister, the port having the shape of a rectangular opening formed between a pair of rotor canister protrusions each having an opened rotor canister slit at the top of protrusions.

Claim 2. (original) The canister of claim 1 further comprising a top end portion and a bottom end portion closing the top and bottom of the canister.

Claim 3. (previously presented) The canister of claim 1 further comprising a number of internal ribs extending lengthwise along the interior of the front walls and side walls to secure the test devices within the canister.

Claim 4. (previously presented) The canister of claim 2 further comprising a mounting flange extending slightly below the bottom end portion so that the canister may be secured within a mounting groove in a vertical position.

Claim 5. (previously presented), The canister of claim 4 further comprising a rotor canister latching flange extending slightly above the top end portion, the latching flange having a pair of canister latch steps engagable by spring-loaded latching cams.

Claim 6. (cancelled)

Claim 7. (cancelled)

Claim 8. (currently amended) The canister of claim 1 7 further comprising an upwardly projecting flexible tab extending into the eject port and adapted to retain rotors within canister to impede accidental dislodging of a test device from the canister and to impede rotors from being improperly inserted back into canister.

Claim 9. (previously presented) The canister of claim 1 comprising an indented sheet of plastic folded in half and sealed at a flange extending the full length of the canister at the juncture of the front wall and the five-section back wall.

Claim 10. (original) The canister of claim 9 further comprising a sealed fold extending the full length of the canister between the front wall and the five-section back wall.

Claim Rejections – Double Patenting

Claims 1-4, 6, 9, and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 8, and 9 of U. S. Patent No. 6,632,654. In response, the limitations of claim 6 and 7 have been incorporated into claim 1 so as to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 has also been amended to indicate that the cross-section of the canister is generally hexagonal, consistent with the interior of the canister. Claims 6 and 7 have been cancelled. No new material has been added.

Conclusion

Since the Examiner had previously indicated that claim 7 would be allowable if rewritten in independent form and since the limitations of claim 7 and intervening claim 6 have now been incorporated into claim 1, Applicant believes that this application contains patentable subject matter and that the foregoing amendments and explanation provide a basis for favorable consideration and allowance of all claims; such allowance is respectfully requested. If any matter needs to be resolved before allowance, the Examiner is encouraged to call Applicant's representative at the number provided below.

Respectfully submitted,



Leland K. Jordan
Registration No. 36,560
Agent for Applicant
(610) 255-1441

Dade Behring Inc.
1717 Deerfield Road
P. O. Box 778
Deerfield, IL 60015-778